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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

August 11, 2016

CERTIFIED RETURN RECEIPT

7013 2250 0000 2310 2644

Brent Andrews
Tar Sands Holdings II, LLC
60 East South Temple, Suite 1800
Salt Lake City, Utah 84111

Subject: Proposed Assessment for State Notice of Violation No. NM-2016-60-02, Tar Sands Holdings II, LLC, Asphalt Ridge #2, M/047/0032, Uinta County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Andrews:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation (NOV). The NOV was issued by Division inspector, April Abate, on March 23, 2016. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$1,870.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.



WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

NOV #: MN-2016-60-02

PERMIT: M/047/0032

COMPANY / MINE Tar Sands Holdings II / Asphalt Ridge 2

ASSESSMENT DATE August 11, 2016

ASSESSMENT OFFICER Lynn Kunzler

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>MN-2014-41-01</u>	<u>October 22, 2014</u>	<u>1</u>
<u>MN-2015-60-02</u>	<u>August 4, 2015</u>	<u>1</u>

TOTAL HISTORY POINTS 2

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)
 (assign points according to A or B)

A. EVENT VIOLATIONS (Max 45 pts.)

- What is the event which the violated standard was designed to prevent?

Environmental Harm

- What is the probability of the occurrence of the event which a violated standard was designed to prevent? Likely

<u>PROBABILITY</u>	<u>POINT RANGE</u>	<u>PROBABILITY</u>	<u>POINT RANGE</u>
None	0	Likely	10-19
Unlikely	1-9	Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS: Inspector indicated that with the drums being open and unsecure, it was likely a hazardous spill could occur. When an unknown material is contained in an un-labeled container, EPA rules require it be handled as a hazardous material, whether or not it actually is. With numerous 55 gal. barrels, 5-gallon buckets and open stock watering bins involved, points were assigned at the mid-point of the 'Likely' range.

3. What is the extent of actual or potential damage?: No Actual damage – Potential damage could be significant give the number of containers.

ASSIGN DAMAGE POINTS (Range 0-25) 12

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

PROVIDE AN EXPLANATION OF POINTS: Significant damage to the environment could occur with the event happening. With the event likely to happen and the number and size of containers, the points are assessed at the mid-point of the range.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS: _____

TOTAL SERIOUSNESS POINTS (A or B) 27

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

LEVEL of NEGLIGENCE.

No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)

Point Range

0

Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)

1 - 15

Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)

16 - 30

STATE DEGREE OF NEGLIGENCE: Negligent

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS: Inspector indicated that this violation resulted from the operator not taking reasonable care to secure or remove containers in the past. Points are assigned at the mid-point of the 'Negligent' range.